



FAIR POLITICAL PRACTICES COMMISSION

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December 31, 2010

Ms. Debra Figone
City Manager
✓ City of San José

Redacted

Re: FPPC Case No. 10/904; City of San José

Dear Ms. Figone:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you may be aware, the Commission received a complaint against the City of San José Redevelopment Agency ("the Agency") alleging that it violated certain provisions of the Act. Specifically, the complaint alleges that the Agency violated the mass mailing at public expense prohibition of the Act, and that the San Jose Silicon Valley Chamber of Commerce made either an independent expenditure by or a non-monetary contribution that it failed to report. The Commission has decided to close this case without further action.

Government Code section 89001 of the Act prohibits the sending of a newsletter or mass mailing at public expense. Section 82041.5 defines a "mass mailing" as more than 200 substantially similar pieces of mail, not including a form letter or other mail sent in response to an unsolicited request, letter or other inquiry.

A mailing is prohibited by section 89001 if four criteria are met. First, the item is "delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box." Second, the item features an elected officer affiliated with the agency that produces or sends the mailing. Third, any of the cost of distributing the item is paid for with public moneys, *or* the cost of designing, producing, and printing the item exceeding \$50 is paid for with public moneys. Fourth, more than 200 substantially similar items are sent, in a single calendar month, excluding any item sent in response to an unsolicited request.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Review of the facts of this case indicate that the newsletter was subscription based, and did not qualify as a "mass mailing" for purposes of the Act.

The complaint also alleged that the January 2010 issue of the Chamber newsletter, *The Chamber Advocate*, contained an article that qualified either as an independent expenditure by or a non-monetary contribution from the Chamber under the Act. This article does not "expressly advocate" the election of the candidates named within, and as such, the communication would not qualify as an "expenditure" under the Act. There would be no reporting obligation.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

Redacted

Zachary W. Norton
Commission Counsel
Enforcement Division